

*This opinion will be unpublished and  
may not be cited except as provided by  
Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A08-0683**

In the Matter of the Welfare of the Children of:  
V.J.J. and R.L.H., Parents.

**Filed November 4, 2008  
Reversed and remanded  
Schellhas, Judge**

Blue Earth County District Court  
File No. 07-JV-07-151

Wallace G. Hilke, Jacob A. Schunk, Lindquist & Vennum, P.L.L.P., 4200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402 (for appellant V.J.J.)

Ross E. Arneson, Blue Earth County Attorney, Mark A. Lindahl, Assistant County Attorney, 410 South Fifth Street, Box 3129, Mankato, MN 56002 (for respondent Blue Earth County)

James R. Safley, Cyrus A. Morton, Damien A. Riehl, Robins, Kaplan, Miller & Ciresi, L.L.P., 2800 LaSalle Plaza, 800 LaSalle Avenue, Minneapolis, MN 55402-2015 (for guardian ad litem)

Considered and decided by Halbrooks, Presiding Judge; Peterson, Judge; and Schellhas, Judge.

**UNPUBLISHED OPINION**

**SCHELLHAS, Judge**

Appellant mother challenges the district court's termination of her parental rights, arguing that (1) the district court's findings are inadequate because they do not contain a finding that she knew or should have known that one of her children suffered egregious harm, and the record does not support such a finding, (2) the egregious harm suffered by

the child was not of a nature, duration, or chronicity that indicates a lack of regard for the child's well-being, and (3) the children's best interests are not served by termination of appellant's parental rights. Because we conclude that the district court's findings do not address factors that must be considered before terminating parental rights, we reverse and remand for further proceedings consistent with this opinion.

## **FACTS**

On March 7, 2007, respondent Blue Earth County filed a petition to terminate the parental rights of appellant-mother V.J.J. and father to all three of their children on the basis that one child, Jo.J.,<sup>1</sup> had suffered egregious harm in his parents' care and that a termination of parental rights served all three children's best interests. The district court terminated the parental rights of mother and father to all three of their children. The district court made 117 detailed findings of fact, including that Jo.J. had suffered "egregious harm while in the care and control of [mother] and [father]," at least one of the parents caused fractures to the child, and both mother and father "ignored the obvious symptoms of a child in distress, and failed to seek timely and appropriate medical treatment for their child." Mother appeals.

## **DECISION**

Appellate courts "review terminations of parental rights to determine whether the district court's findings address the statutory criteria and whether those findings are

---

<sup>1</sup> Because all of appellant's children share the same initials, J.J., and have no middle names, to refer to the injured child, we use an abbreviation of his first name, Jo., along with the first letter of his surname.

supported by substantial evidence and are not clearly erroneous.” *In re Welfare of P.R.L.*, 622 N.W.2d 538, 543 (Minn. 2001).

The statutory grounds for termination of parental rights are set forth in Minn. Stat. § 260C.301, subd. 1 (2006). Here, the district court terminated appellant’s parental rights under the egregious-harm provision, subdivision 1(b)(6),

that a child has experienced egregious harm in the parent’s care which is of a nature, duration, or chronicity that indicates a lack of regard for the child’s well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent’s care.

In the recent case of *In re Welfare of Child of T.P.*, the supreme court held that

Termination of parental rights under the egregious harm provision requires more than a child experiencing egregious harm “in the parent’s care.” Minn. Stat. § 260C.301, subd. 1(b)(6). *It also requires a finding that the egregious harm “is of a nature, duration, or chronicity that indicates a lack of regard for the child’s well-being, such that a reasonable person would believe it contrary to the best interest of the child or of any child to be in the parent’s care.”*

747 N.W.2d 356, 361-62 (Minn. 2008) (emphasis added). The court said:

Where a parent has not personally inflicted egregious harm on the child, it is difficult to conceive how the “nature, duration, or chronicity” of that harm could indicate that parent’s lack of regard for the well-being of the child unless that parent were somehow aware of the harm and its cause. Stated differently, the mere fact that a child experienced egregious harm does not indicate a lack of regard for the well-being of the child on the part of a parent who did not personally inflict the egregious harm, did not actually know about the harm, and could not have been expected to know about the harm.

*Id.* at 362. The supreme court further held that “to terminate the rights of a parent who has not personally inflicted egregious harm on a child, a court must find that the parent

either knew or should have known that the child had experienced egregious harm.” *Id.*

The court elaborated in a footnote, explaining

where a parent who has not inflicted egregious harm but who either knew or should have known that a child experienced egregious harm, the “nature, duration or chronicity” of the egregious harm may not necessarily “indicate [a] lack of regard [by that parent] for the child’s well-being.” Minn. Stat. § 260C.301, subd. 1(b)(6). That such a parent either knew or should have known that a child experienced egregious harm is necessary, *but not sufficient*, to satisfy that statutory requirement. Other factors will be relevant to whether that requirement is met in a given case.

*Id.* at 362 at n.4 (emphasis added). The court concluded that the requisite findings were lacking in *T.P.* and remanded for further proceedings. *Id.* at 363.

Here, the district court’s exemplary findings understandably do not fully and specifically address the concerns articulated in *T.P.*, which was decided after the district court issued its order. As in *T.P.*, none of the district court’s findings or conclusions specifically addresses the knew-or-should-have-known standard. *Id.* The district court did not specify who inflicted the egregious harm upon Jo.J., whether mother knew or should have known about the harm and its cause, or whether the nature, duration or chronicity of the egregious harm indicate lack of regard by mother for Jo.J.’s well-being. We therefore reverse and remand for further proceedings consistent with this opinion. Because we remand for further proceedings, we do not reach mother’s remaining arguments of error.

**Reversed and remanded.**